Veterans Review and Appeal Board
ANNUAL REPORT 2013-14

Your right to be heard

Canada

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Message from the Chair

At the Veterans Review and Appeal Board, our role is to provide an independent avenue of redress to individuals who are dissatisfied with disability benefits decisions made by Veterans Affairs Canada. Every week, in locations across Canada, our Board Members listen to Veterans' stories and carefully review their cases. These hearings give Veterans a new opportunity to establish that they suffer from a disability, and that the disability is linked to their service.

As we carry out this important mandate, each Board Member and employee recognizes that our decisions can impact the daily lives of Veterans and their families. That is why we are focussed on providing timely, respectful hearings and fair, plain-language decisions. Our staff and Members are dedicated to serving Veterans. Everything we do—from ongoing training for our Members to operational improvements—is to give Veterans the best possible hearing experience and a fair decision. They deserve nothing less for their service to Canada.

This, our first Annual Report, is another way for us to better serve Veterans and Canadians. It gives us the opportunity to share information about our activities, successes, and challenges so that Canadians can better understand our work and have confidence in the appeal process. The Board's mandate hasn't changed since it was established in 1995, but the way we operate has.

Today, we use technology to make our processes more efficient—whether through the scanning of pre-hearing documentation or by using videoconferencing for hearings. Board Members are now appointed through a merit-based selection process that values military, medical, policing and legal backgrounds. On our website, you can find our most relevant and instructive decisions as well as other useful information. And, we are building effective relationships with the CAF, RCMP, and Veterans' organizations.

In this inaugural report, you will find useful information about who we are, what we do, and our role in the disability benefits adjudication system. It contains a detailed review of our annual workload—who applied, why they did, what the outcomes were and other relevant statistics. There is a focus on our operations—how we process applications and why it matters. You will also learn more about our hearings, our decisions and our outreach activities. You will read about changes we have made to improve the appeal process and to address valuable feedback from the Veterans Ombudsman, parliamentarians, stakeholders, and most importantly, our applicants. And, of course, we'll tell you about the challenges we face as a small tribunal dealing with an unpredictable and complex workload.

In my fifth year as Chairman, I can say that 2013-14 was a year of renewal for the Board. We stepped back, looked at our processes and renewed our focus on serving applicants. Our new vision, mission and values statements reinforce this commitment. At the end of the day, we want Veterans, CAF and RCMP members, and their families to know their rights. We want them to come forward if they're dissatisfied, to tell us about their situation, to know they've been heard and to have confidence in our decisions.

John D. Larlee
Chair

What does fairness mean to you? For us, it's about making sure that Veterans, Canadian Armed Forces (CAF) and RCMP members, and their families receive all the benefits they're entitled to for service-related disabilities. It's also about how we serve them: with fair hearings, fair decisions and fair treatment.

Who We Are and What We Do

What We Do for Ill and Injured Veterans

Created in 1995, the Veterans Review and Appeal Board (VRAB, the Board) is the arm's-length tribunal that provides an independent avenue of appeal for disability benefits decisions made by Veterans Affairs Canada (VAC, the Department).

The Board ensures that Canada's Veterans receive the disability benefits to which they are entitled under the law. To do this, the Board offers two levels of redress for disability benefits decisions: a Review hearing; and, if the applicant remains dissatisfied, a subsequent Appeal hearing. It also provides the final level of appeal for War Veterans Allowance decisions.

In 2013-14, the Board had an operating budget of $9.995 million to deliver a national appeal program with hearings across the country.

Vision, Mission and Values

Vision

To be recognized as the independent, fair, and knowledgeable appeal tribunal that supports Veterans, Canadian Armed Forces and RCMP members, and their families in obtaining the benefits they are entitled to for service-related disabilities.

Mission

To provide timely, respectful hearings and fair, plain-language decisions to Veterans, Canadian Armed Forces and RCMP members, and their families who turn to the Board for redress of their disability benefits decisions.

Values

Independence:	We ensure our decision-making is free from all outside influences.
Impartiality:	We treat everyone in a fair and unbiased manner.
Respect:	We treat everyone with courtesy and respect.
Excellence:	We strive to attain the highest standards through continuous improvement and innovation.
Integrity:	We are professional and ethical in all we do.
Accountability:	We accept responsibility for our actions and decisions.

An Independent Appeal Process

The Board operates at arm's length from the Department to provide a fair and independent appeal process. This means that the Board is an entirely separate organization. As independent decision makers, Board Members are not bound by previous decisions and will change them to benefit Veterans if there is reason to do so.

In 2013-14, almost 2,100 applicants received new or increased disability benefits from the Board.

Every year, thousands of individuals benefit from the opportunity to appear and have their information looked at in the best possible light by the Board's independent decision makers.

The Board: an Administrative Tribunal

Administrative tribunals like the Board are highly specialized in the kind of cases they hear, and give dissatisfied people an avenue of appeal that is less formal, less costly and less time-consuming than the courts.

The Board's work is governed by the:

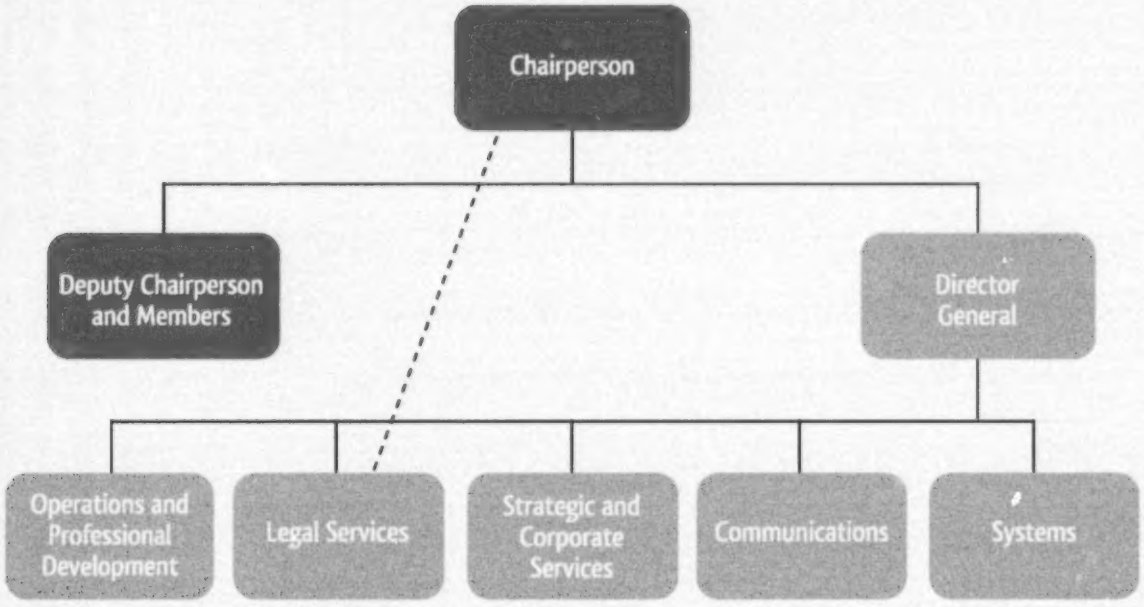
- *Veterans Review and Appeal Board Act*; and
- *Veterans Review and Appeal Board Regulations*.

Applications for Review and Appeal can be made to the Board under the:

- *Pension Act*;
- *Canadian Forces Members and Veterans Re-establishment and Compensation Act - Part 3* (New Veterans Charter);
- *War Veterans Allowance Act*;
- *Royal Canadian Mounted Police Pension Continuation Act*; and
- *Royal Canadian Mounted Police Superannuation Act*.

Board Members at their Professional Development Training Seminar in May 2013

Our Organization



The Chairperson, appointed by the Governor in Council, is the Board's Chief Executive Officer and reports to Parliament through the Minister of Veterans Affairs.

The Board has up to 25 full-time, Governor in Council appointed Members (including the Chair and Deputy Chair). In December 2013, an amendment to the *VRAB Act* reduced the maximum number of permanent Board Members from 29 to 25, which brought the legislation in line with the Board's actual workload requirements. Members are independent and impartial adjudicators. They hear complex and challenging cases brought forward for redress at the Board, and decide whether the evidence meets the requirements of the legislation to award new or increased levels of disability benefits. They look at every case through a new lens and with fresh eyes.

The Director General provides strategic leadership for the effective planning and management of Board operations and corporate management functions. The Board employs approximately 80 operational staff to support the delivery of its program.

Review hearings are meant to be as informal as possible so that applicants feel at ease.

Review Hearing Locations

1. St. John's
2. Sydney
3. Halifax
4. Charlottetown
5. Moncton
6. Fredericton
7. Quebec
8. Montreal
9. Kingston
10. Ottawa
11. Peterborough
12. Toronto
13. Hamilton
14. London
15. North Bay
16. Winnipeg
17. Regina
18. Calgary
19. Edmonton
20. Penticton
21. Vancouver
22. Victoria
23. Courtney/Comox

Review and Appeal Hearings

Applicants who are dissatisfied with a VAC decision have access to free advice and representation from external organizations who are experts in the legislation. The Bureau of Pensions Advocates, a free legal service provided by the Government of Canada, represents most applicants at Board hearings. Service Officers from the Royal Canadian Legion also represent applicants. A small number of Veterans choose to represent themselves or hire a private representative at their own expense. The Board's process is non-adversarial, which means no one is arguing against the Veteran nor defending the VAC decision under review.

Review hearings are conducted by panels of two Board Members in locations across the country. Veterans are reimbursed for their travel costs to attend their hearings. Here, Veterans have the opportunity to give oral testimony, present evidence and arguments, and bring witnesses in support of their case. This is their only opportunity in the disability benefits adjudication process to tell their story in their own words to decision makers.

Appeal hearings are conducted primarily in Charlottetown, Prince Edward Island by panels of three Board Members who did not hear the same case at Review. While the legislation does not permit oral testimony at this level, the Appeal hearing provides a further opportunity for applicants, through their representative, to submit new information and make arguments in support of their case. Appeal decisions are final and binding.

The Board's process is very open-ended. Applicants who are dissatisfied with their final-and-binding Appeal decision can apply to the Board for a Reconsideration (i.e. a reopening of the case) if new, credible and relevant evidence comes to light at a later date, or if an error in fact or law is found in the Appeal decision.

Hearings are open to the public, except in special circumstances where the applicant requests and is granted a closed hearing (subsection 36.2, *VRAB Act*). The Board encourages members of the public to attend hearings, as this contributes to a greater understanding of the Board's decision-making. Anyone interested in observing hearings should contact us so that we can confirm hearing locations and dates, and advise applicants whose personal information will be discussed at the hearing.

Judicial Review by the Federal Court

If an applicant has exhausted all their redress options at the Board and is still dissatisfied, they have the right to apply to the Federal Court of Canada for a judicial review of the decision. Most adjudicative bodies are subject to correction and guidance from a higher decision-making authority. Judicial review is a positive and constructive part of the adjudicative process—it is one way that the interpretation of the law evolves and progresses over time. In the Board's case, Veterans can benefit from Court decisions that clarify and expand the understanding of disability pension law.

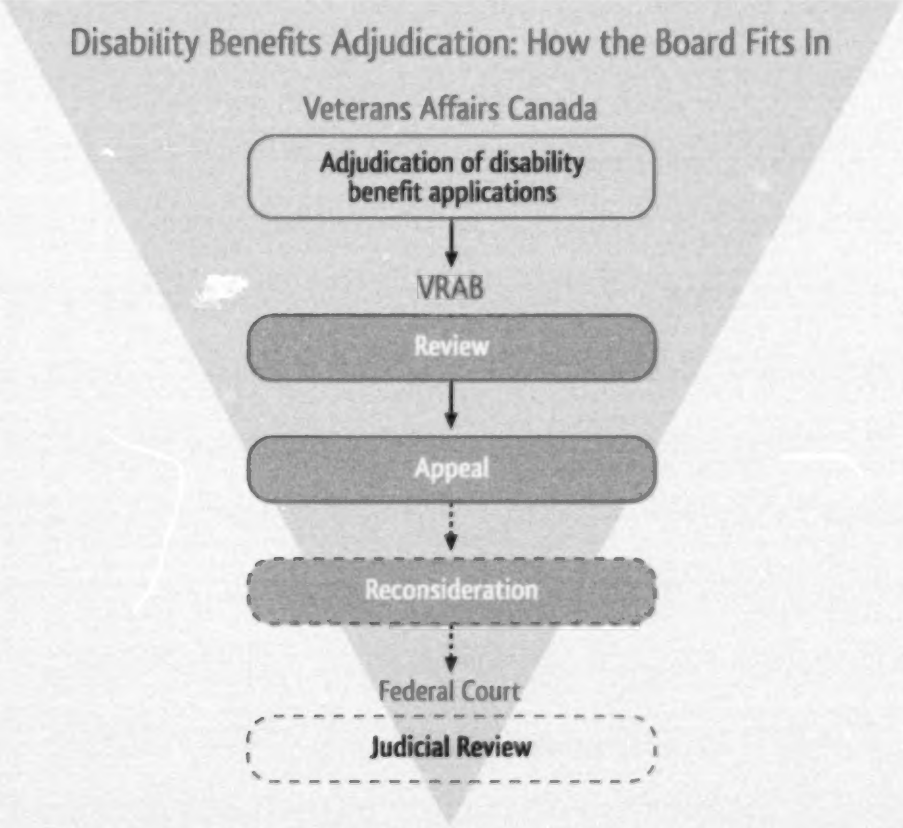
In a judicial review, the Court's role is to decide whether the Board made a reasonable decision based on the evidence before it and whether it properly performed its function in making the decision—not to rule on the merits of the case (i.e. whether the applicant should receive a favourable decision from the Board).

The Court may decide that the Board has made a reasonable decision and dismiss the application for judicial review. Or, it may decide that the Board's decision was not reasonable (e.g. because the Board did not provide clear reasons about how it had addressed certain pieces of evidence), and send the case back to the Board to be reheard.

If the latter, the Board will rehear the case in accordance with the Federal Court's directions. Board Members will address the Court's instructions and, as for all cases, consider the evidence put forward by the Veteran and their representative and determine whether it fulfills the legislative requirements. As a result, some cases may have a different outcome, but there will also be cases where the Board is unable to rule differently.

The Board monitors the outcomes of applications for judicial review to ensure that any guidance given by the Courts is reflected in its decisions and operations. We review the decisions with our Members and integrate this direction into training and decision making/writing.

Disability Benefits Adjudication: How the Board Fits In



Caseload

Incoming Cases

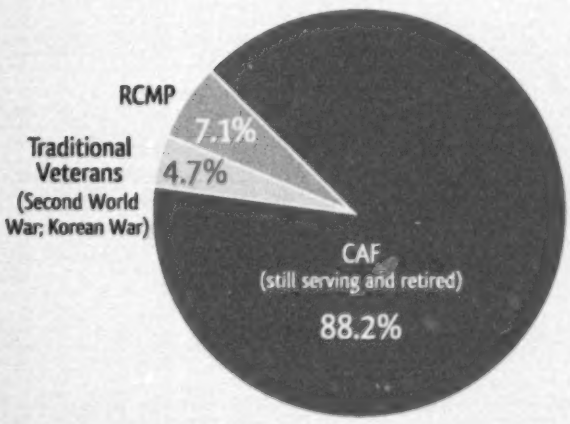
Individuals who are dissatisfied with a decision made by VAC can request that the decision be independently reviewed by the Board. There is no time limit on when they can file that request with the Board following the VAC decision.

The best indicators of how many applications the Board is likely to receive in a given year are VAC's disability benefits decision annual volumes and favourability rates. Over the last five years, Board Review decisions have represented between 8.5% and 10.2% of VAC's annual decisions with appeal rights to the Board. Individuals who request a review by the Board are most often dissatisfied with their level of entitlement to or assessment for disability benefits, or the effective date for these benefits.

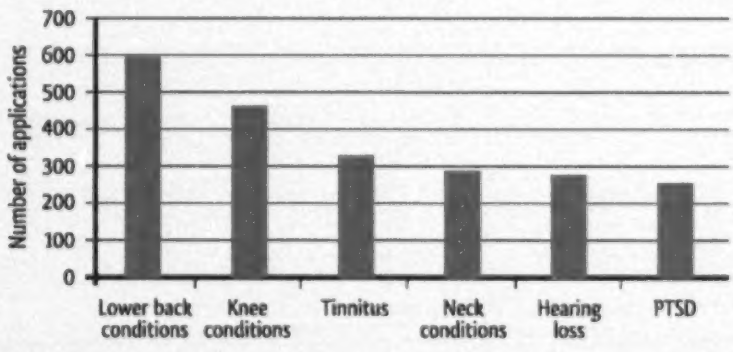
Fiscal Year	VAC decisions with appeal rights to VRAB*	VRAB Review decisions	VRAB Review decisions as a % of VAC's annual decisions
2013-14	32,963	3,213	9.7 %
2012-13	35,139	3,236	9.2 %
2011-12	35,491	3,636	10.2 %
2010-11	41,536	3,539	8.5 %
2009-10	42,796	4,140	9.7 %

* This includes first applications, medical reassessments, and departmental reviews.

Applicant Make-up in 2013-14



Top six medical conditions in applications to VRAB in 2013-14



Annual Number of Decisions

In 2013-14, the Board issued 3,213 Reviews, 1,159 Appeals, and 142 Reconsiderations. The number of cases at each level tends to decrease as applicants receive favourable outcomes and the issues become narrower. We also issued 11 War Veterans Allowance appeals, which deal with a very specific program that helps certain low-income Veterans or their survivors.

Decision volumes for the last five fiscal years

Fiscal Year	Review	Appeal	Reconsideration	War Veterans Allowance	Total Decisions
2013-14	3,213	1,159	142	11	4,525
2012-13	3,236	928	121	9	4,294
2011-12	3,636	1,072	178	22	4,908
2010-11	3,539	974	131	24	4,668
2009-10	4,140	1,380	161	7	5,688

How Often Do Applicants Receive a Favourable Decision from the Board?

The Board's ability to rule favourably at Review is often because of the applicant's oral testimony and/or new evidence. While the legislation does not permit oral testimony at Appeal, this level represents a further opportunity for the applicant—through their representative—to submit new information and make arguments in support of the case. The annual favourability rates included here are related to the unique cases that were decided on their own merits in a given year.

Favourability Rates for the last five years

Fiscal Year	Review		Appeal	
	Decisions	% Favourable	Decisions	% Favourable
2013-14	3,213	47	1,159	43
2012-13	3,236	51	928	34
2011-12	3,636	50	1,072	29
2010-11	3,539	50	974	33
2009-10	4,140	54	1,380	35

The Board's information systems track applications received. An application may include rulings on more than one medical condition or type of service. When a Veteran receives an increased level of entitlement or assessment for one aspect of their application, the decision is counted as favourable.

Federal Court Decisions

In 2013-14, six applicants applied for a judicial review of their Board decision. In the same year, the Federal Court issued 11 decisions, eight of which upheld the Board's decision, and three of which overturned the Board's decision.

Fiscal Year	Number of FC decisions	Number which upheld the Board's decision	Number which overturned the Board's decision
2013-14	11	8	3
2012-13	10	6	4
2011-12	14	7	7
2010-11	13	4	9
2009-10	19	8	11

Source: Federal Court of Canada website **and VRAB** Departmental Performance Reports

Excerpt from a 2014 Federal Court decision

"The role of the court on judicial review where the standard of reasonableness applies is to determine whether the Panel's decision "falls within 'a range of possible, acceptable outcomes which are defensible in respect of the facts and law' (*Dunsmuir*, at para. 47). There might be more than one reasonable outcome. However, as long as the process and the outcome fit comfortably with the principles of justification, transparency and intelligibility, it is not open to a reviewing court to substitute its own view of a preferable outcome.": (*Canada (Minister of Citizenship and Immigration) v Khosa*, 2009 SCC 12, [2009] 1 SCR 339 at para 59). The Court will not re-weigh the evidence or remake the decision." *Phelan v. Canada (Attorney General)*, 2014 FC 56

Chair John Larlee and the Board's Communications Officer Alexandra Shaw on Remembrance Day 2013 at the Charlottetown Cenotaph.

Processing Applications

If an applicant is dissatisfied with their Departmental decision, the first step is to contact a representative organization (usually the Bureau of Pensions Advocates), who advises them on their redress options and guides them in obtaining any additional information to support their case.

When an applicant decides to proceed with a request for a Review or Appeal, their representative registers the case with us. It is important to understand that—leading up to the hearing—some of the time in the process is shared and beyond the Board's control. For example, the representative often needs time to work with the applicant to obtain additional, supporting documents for the hearing. Only once they are ready can the case be scheduled for a hearing. Setting a hearing date is also a shared responsibility: it depends on the readiness and availability of the applicant, the representative and Board Members.

We take into account these pockets of shared time to establish a realistic and attainable service standard for the part of the process time that we can control, i.e. the time between the hearing and the decision. Our commitment is to issue written decisions within six weeks of the hearing, time that is necessary to ensure that decisions are clear and well-reasoned. In 2013-14, we were very successful in meeting this goal, issuing 84% of 3,213 Reviews and 85% of 1,159 Appeals within the service standard time frame. At Review and Appeal respectively, a further 12% and 10% of decisions were issued a short time later, i.e. within 60 days of the hearing. If a case goes beyond 90 days, we contact the applicant to inform them of the status of their decision.

Percentage of cases in which the Board met its six-week service standard in the last five years

Fiscal Year	Review	Appeal
2013-14	84%	85%
2012-13	87%	89%
2011-12	82%	86%
2010-11	85%	88%
2009-10	80%	86%

Processing Times in 2013-14 from Registration with VRAB to Decision Issued *

Reviews .... 172 calendar days
Appeals .... 107 calendar days

* Reported in averages; includes time shared with representative and applicant.

In response to a recommendation from the Standing Committee on Veterans Affairs (ACVA) from the previous year, the Board established and began to track a new service commitment of 16 weeks between the moment a hearing is scheduled and the decision. Our results demonstrate our commitment to timely service.

How we did against the 16-week service commitment

From Oct 1, 2013 * to March 31, 2014:

97% or 1,471 of 1,520 Reviews
98% or 414 of 421 Appeals

* This data is for a partial year. Full data will be available for 2014-15.

Scheduling Hearings

Before coming to the Board, applicants have already been through the Department's adjudicative process, possibly one or more levels of redress—all of which takes time and effort. That is why a timely and efficient process is especially important to applicants and their representatives.

Timeliness is important to us because it's important to applicants.

Efficient scheduling is necessary to achieving timely hearings. The Board establishes an annual hearing calendar to let representatives know where and when we can make Members available to hear cases.

In planning the hearing calendar, we take into account the volumes and locations of cases from previous years, and solicit input from the Bureau of Pensions Advocates (who represents the vast majority of applicants before the Board). Cooperation between our organizations is key to hearing applicants' cases quickly. Once the annual hearing calendar is established, it is up to representatives to let the Board know which cases are ready to be heard. Because the annual schedule is developed a year in advance, it is subject to change as we get closer to hearing dates and are able to identify cases that are ready to be scheduled.

Videoconference Hearings

Applicants also have the option of having a hearing by videoconference (meaning one or both of the Members appear by videoconference). This technology is an effective way for us to hear cases quickly, especially for applicants in locations where the demand for hearings is low (meaning the Board travels there less frequently).

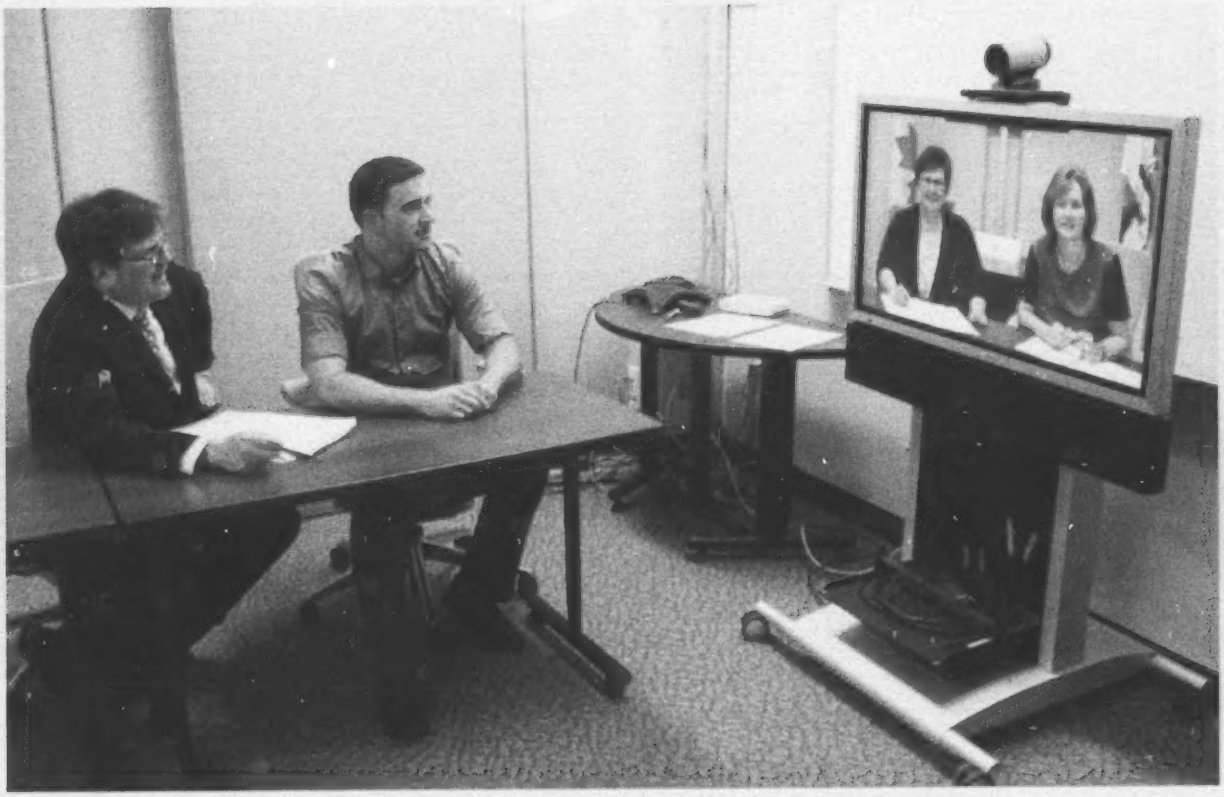
In 2013-14, approximately 65% of Review hearings took place in nine of the 23 locations (Halifax, Fredericton, Charlottetown, Quebec City, Montreal, Ottawa, Toronto, Edmonton, and Victoria). The remaining 14 locations were considerably lower volume. Based on demand, the Board holds hearings in some locations as little as twice a year and in other locations, as many as 25 times a year.

Telecommunications technology is widely used by courts and administrative tribunals in Canada. Among other things, it allows them to provide a fair hearing at the earliest opportunity. Hearing participants are considered to be present and the evidence is assessed in the same way as when everyone is in the same room.

When we asked our applicants about their video-conference hearing, they were overwhelmingly positive.

Exit Survey on Videoconference Hearing Experience

In August 2012, the Board conducted a pilot where we held an increased number of Review hearings by video-conference and reached 39 applicants for an anonymous telephone exit survey. Applicants were overwhelmingly positive: 98% identified the video as clear or very clear; 92% identified the audio as clear or very clear; and only 5% indicated having technical difficulties at their hearings. Finally, applicants were asked whether there was any way the Board could improve videoconference hearings. The majority of applicants said that they didn't see any way the experience could be improved, and many noted that the hearing had been a good experience. Some even stated this was a better option than travelling.



At videoconference hearings, Members interact with the applicant and representative through high-quality audio/visual technology.

Year in Review

Promoting Quality and Independence in Decision Making

The Board provides adjudicative support to Members through quality assurance staff and legal counsel. Their assistance to Members does not address the merits of the decision. Rather, their role is to support Members in writing clear and well-reasoned decisions in plain language.

In December 2012, ACVA asked the Board to review its processes to ensure the independence of Board Members and their decision-making. We carried out a detailed review of our quality management and legal services functions and ensured that Members and staff understood their roles and responsibilities.

Better Decisions

Applicants deserve quality decisions that present information logically and accurately; address evidence and arguments; and express the reasons for the conclusion clearly and plainly.

In May 2012, we established a team of Members and staff to review the components and language of our decisions. The team developed and piloted a decision-writing checklist that:

1) describes the components of a quality decision;
2) encourages clear, concise writing that includes only what is relevant;
3) supports the use of bullets and endnotes to logically organize information; and
4) requires that every decision include a plain-language explanation of the rules of evidence (section 39 of the *VRAB Act*) and how they have been applied to the facts and evidence of the case.

Plain Language Explanation of Section 39

The Panel has reviewed all of the evidence and has also taken into consideration the Advocate's submissions. In doing so, the Panel has applied the requirements of section 39 of the Veterans Review and Appeal Board Act. *This section requires the Panel to:*

(a) draw from all the circumstances of the case and all the evidence presented to it every reasonable inference in favour of the applicant or appellant;
(b) accept any uncontradicted evidence presented to it by the applicant or appellant that it considers to be credible in the circumstances; and
(c) resolve in favour of the applicant or appellant any doubt, in the weighing of evidence, as to whether the applicant or appellant has established a case.

This means that in weighing the evidence before us, the Panel will look at it in the best light possible and resolve doubt so that it benefits the applicant/appellant. The Federal Court has confirmed, though, that this law does not relieve applicants/appellants of the burden of proving the facts needed in their cases to link the claimed condition to service. The Board does not have to accept all evidence presented by an applicant/appellant if the Board finds that it is not credible, even if it is not contradicted. [1]

[1] MacDonald v. Canada (Attorney General) *1999, 164 F.T.R. 42 at paragraphs 22 & 29;* Canada (Attorney General) v. Wannamaker *2007 FCA 126 at paragraphs 5 & 6;* Rioux v. Canada (Attorney General) *2008 FC 991 at paragraph 32.*

We implemented this checklist for Members and staff in October 2012, as part of our continued focus on decision writing. We also established new evaluation criteria for fair proceedings and quality decisions to guide our continuous education program for Members and staff as well as service improvements.

These efforts have yielded concrete results: at informal feedback sessions coordinated by the Royal Canadian Legion in May 2013, military members and Veterans told us that our decisions are now clearer and easier to read.

Good Reasons

A tribunal's reasons ensure its accountability to applicants, the public, and reviewing courts. The Federal Court generally accepts that a decision is reasonable when it:

- contains justification for the conclusions reached;
- is transparent (clear and can withstand scrutiny);
- is intelligible (able to be understood); and
- falls within a range of possible, acceptable outcomes supported by fact and law.

A Qualified Membership

Our Board has a cadre of Members who bring a diversity of professional experiences to their work. Board Members are Governor in Council appointees who qualify for appointment through a merit-based selection process that values military, medical, legal, and policing experience. This ensures they have the skills and abilities to carry out the role of a decision maker in an administrative tribunal setting. In short, this role is to conduct hearings, evaluate evidence, and make decisions based on the facts and legislation.

In 2013-14, the Board made its selection process more efficient by replacing its paper-based exam with a web-based exam to facilitate easier access for candidates. It also promoted the selection process in the national CAF publication, *The Maple Leaf*, and through other stakeholder communications to encourage applications from interested Canadians with military, medical and policing backgrounds. In 2013-14, half of the Board's Members were CAF and RCMP Veterans or health care professionals.

In May 2013, the Chief of Military Personnel, Major-General David Millar, visits the Board to learn more about our program. Here, speaking with Chair John Larlee and Board Member Pierre Desjardins.

Member Training

To support Members in their work, the Board has a comprehensive professional development program that begins at their appointment and continues throughout the length of their term. Before hearing cases, all new Members receive at least eight weeks of rigorous classroom and on-the-job training on: the legislation; administrative law; the weighing of evidence; military issues; medical conditions; the conduct of hearings; and decision writing. They are also trained to assess the credibility of medical evidence based on directions given by the Federal Court through its decisions. The Court's directions state that a credible medical opinion must:

1) be provided by a qualified person;
2) be based on a reasonably complete and accurate medical history of the individual; and
3) have a logical conclusion supported by recognized medical-scientific information.

A Day in the Life of a Board Member

- *In a typical week, Members hear four to six cases a day, four days a week (Tuesday through Friday). Before a day of hearings, Members must familiarize themselves with the Statements of Case, i.e. the hearing documentation that contains the relevant service documents, medical records and previous decisions in the case.*
- *Members who primarily hear Review cases live in cities across Canada and have a heavy travel schedule. They are on the road an average of 23 weeks annually to conduct hearings in one of our many locations across the country. Each of them hears about 550 cases annually and writes decisions for one-half of those (as Reviews are heard by two-member panels).*
- *Members who primarily hear Appeal cases are based in Charlottetown. Each of them hears up to 18 cases per week, which amounts to about 540 cases annually and writes decisions for one-third of those (as Appeals are heard by three-member panels).*

Veterans, stakeholders, and parliamentarians have told us that they want our Members to have a good understanding of military work and culture. The Board has always felt that this is important, so we continue to expose Members to the rigours of the military and RCMP through classroom training (given by serving personnel), and hands-on visits to CAF bases/wings. During these visits, Members learn about the physical and mental challenges inherent to various trades. They have the opportunity to speak with soldiers, sailors and airmen/airwomen, ask questions, see military infrastructure and equipment, try on gear, and take part in exercises.

Training for Board Members 2013-14

From the CAF:

- Visit to CFB Gagetown, NB, with demonstrations and presentations from serving personnel and tours of the Mental Health Clinic, Military Family Resource Centre, Deployment Support Unit, and Joint Personnel Support Unit.

From the RCMP:

- Demonstrations by an RCMP Constable
- RCMP Forensic Identification Services
- RCMP Specialized Duties
- RCMP Emergency Response Team

From the Royal Ottawa Stress Injury Clinic and other medical professionals:

- Serving the War Wounded - Telemedicine
- Invisible Wounds
- Transitioning: Multiple Losses
- Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition
- Compassion Stress & Fatigue
- Challenges in Front Line Work
- Road to Mental Readiness
- Stress and Heart Disease
- Expert Evidence and the Treating Psychologist

From Board staff:

- Decision Writing
- Consistency: What, Why, How
- Electronic Evidence
- Credibility and Sufficiency of Evidence
- Adjournment Process
- Quality Management: Roles and Responsibilities
- Access to Information and Privacy

{ *"One of the most rewarding parts of my job is to establish a sense of trust with Veterans which encourages them to open up when they testify at the hearing."* }

Pierre Desjardins, Board Member

In May 2013, the Canadian Armed Forces (CAF) Defence Fitness Team came to Charlottetown to present FORCE, the new CAF fitness testing program. VRAB employee Jacqueline Rupert-Saucier learns just how physically demanding the test is.

Board Member Denise Dietrich takes a ride in an armoured vehicle at CFB Gagetown.

Board Member Serge Martel feels the weight of rucksacks.

Director General Dale Sharkey suits up at CAF Cultural Awareness Day.

Chair John Larlee speaks with a Search and Rescue Technician at CFB Greenwood.

Sgt Brad Chugg educates Board staff on the RCMP. Board employee Nina Arsenault tries on an RCMP belt.

A Board Member tests out a harness used in search and rescue operations at CFB Greenwood.

The Board's Process

You are dissatisfied with a VAC decision on disability benefits

1. Contact a representative for advice (Bureau of Pensions Advocates or the Legion)

2. Your representative registers your application with the Board

3. The Board prepares the hearing documentation and provides it to your representative

4. Your representative prepares your case and works with the Board to schedule your hearing

5. Your hearing before a panel of Board Members who make a decision in your case

VAC administers benefits and services

6. The Board prepares a written decision and mails it to you

Simplifying and Improving Our Processes

For the last several years, we have been streamlining our processes, eliminating duplication of work, and improving the quality of our program from start to finish. We have done so while adding flexibility into our processes so that we can adapt to applicants' expectations and a fast-changing work environment.

The Board's redesign project has been led by a team of motivated staff and Members who are passionate about the organization. They have thought outside the box, questioned the most basic steps in our process, and found new, innovative ways of working. They began with a detailed mapping of how we process applications—from the moment we receive them to the moment we send the decision to the applicant.

After studying the process map, the team identified a number of areas that needed to be simplified and generated many ideas and solutions. This work has already resulted in concrete improvements for applicants, staff, and the organization as a whole. For example, the redesign team updated and clarified hearing adjournment procedures which have been causing unnecessary delays in some cases.

The redesign team will continue its work into 2014-15. Their main focus will be the Statement of Case (SOC). The Board assembles the SOC well in advance of the hearing and sends it to the representative. This allows the representative and applicant to identify any missing information and consider what additional evidence they may wish to obtain in support of the case. It includes copies of evidence from Service Health Records and VAC files relevant to the decision under review. The team is looking at both the content and format of this important evidence package to make sure it is as accurate and complete as possible. Improving this foundation document, which is used by all of the hearing parties, will greatly contribute to a better hearing experience and better decisions for applicants.

"I am thankful for each person who served and serves our country. Through their sacrifices, Canadians live in peace, security and freedom. For my part, I am committed to never forget the cost of their contribution and to continually look for ways to support and improve the Board's appeal program."

Ellen Cudmore, Planning and Reporting Officer

Systems Improvements

The Board is continuously improving the case management system used to track the progress of applications, manage scheduling, and store hearing documentation and decisions. This system allows us to closely monitor our workload and take corrective action to minimize any delays that may arise. It is critical to our operations and to quality service.

In 2013-14, we made great strides in bolstering our internal tracking system to give us more information about our work. This is allowing us to provide Canadians with more information about our program and decision-making. These enhancements will allow us to better understand why applicants come to the Board: Are they coming for new entitlement to benefits or for increased benefits? What do they leave with? What are the main reasons why the Board rules in their favour? This kind of information will be helpful to the Board and VAC, as both organizations are interested in getting the best decisions to Veterans as early on in the process as possible.

"The work that I perform at the Board is rewarding and important to me because I know that it provides a better service for Veterans."

Kathy Stewart, Chief of Information Technology

More Outreach and Communications

It is important that applicants and stakeholders have access to information about our work that is clear and written in plain language. That is why we continued to make communications one of our priorities in 2013-14.

Publishing Decisions

The Board publishes its most relevant and instructive decisions on its website. These Noteworthy Decisions help applicants and the public to better understand our work and make them aware of decisions made in cases similar to their own. To protect privacy, they are depersonalized to remove personal information that is not relevant to the reasons for the decision. These decisions are "noteworthy" because they either address a question of law of general public interest or importance or give interpretive guidance and commentary on issues of law, policy and procedure. The Board's Noteworthy Decisions are also available on the Canadian Legal Information Institute's (CanLII) website, a well-known online legal resource, for access by a wider audience.

How the Board depersonalizes Noteworthy Decisions

To balance openness in decision-making with applicants' privacy, the Board removes personal information that is not relevant to the reasons for the decision. This includes names of the applicant and non-expert witnesses, and other information that could identify the individual (e.g. service or file numbers or home address). A published decision may contain some information that is relevant to the reasons, such as:

- *the relationship between the applicant/appellant and a family member or witness at the hearing;*
- *medical conditions;*
- *occupational information; and*
- *personal characteristics that are relevant to the disability application.*

In its December 2012 report, ACVA recommended that the Board publish its decisions which are the subject of judicial review at Federal Court, as well as decisions resulting from Federal Court rehears.

As noted earlier, we take our obligations to Veterans under the *Privacy Act* very seriously, and are mindful of protecting the Veterans' personal information. For this reason, the Board asked the Office of the Privacy Commissioner (OPC) for advice on how it could best implement ACVA's recommendation. The OPC's response noted the "added complexity associated with" publishing decisions related to Federal Court judicial reviews, "complicated by the fact that [... the Courts are not] covered by the *Privacy Act*".

We are finalizing an approach to publishing decisions that will be both informative and strike a balance between privacy and transparency. Currently, we are depersonalizing and translating our Federal Court rehear decisions for posting to our website in 2014-15.

New Vision, Mission and Values Statements

We also released our revised Vision, Mission and Values statements in 2013-14. They are the result of a review begun the previous year, to determine whether the statements reflected our commitment to applicants, resonated with stakeholders, and were expressed in plain language. We also considered how we could improve the statements as part of our actions to address ACVA's recommendations.

The new statements reflect feedback from our employees and stakeholders to more clearly express what is most important to Veterans, CAF and RCMP personnel, and their families when they appeal their disability benefits decisions. They also include the value of independence to promote and reinforce our mandate as an appeal tribunal that operates at arm's length from government to ensure a fair appeal process.

Improving Our Communications Materials

As an administrative tribunal that holds hearings and makes decisions on disability benefits, it is challenging to be perceived as welcoming and approachable. Applicants have a lot at stake when they come to us for redress, and despite our informal hearings, many will still find the experience stressful.

But it is important that all Veterans and their families know about our program, see themselves reflected in our organization, and feel comfortable approaching us for redress of their VAC disability benefits decisions. So, in 2013-14 we focussed on developing a friendlier, more people-focussed image of our organization that Veterans could identify with. We created a new graphic concept which we have been applying to our corporate materials. Our new look depicts people with different kinds of service and experiences, all of whom have the right to come forward to the Board. "Your right to be heard" is intended both to inform potential applicants of their appeal rights, and to highlight the Board's hearings where applicants have the chance to tell their stories.

While applicants have access to free legal assistance through the Bureau of Pensions Advocates to prepare and present their case before the Board, we also have a responsibility to give them helpful information about the process. In 2013-14, we reprinted our popular applicant brochure and began a plain language review of the fact sheets and standard letters we use to communicate with applicants.

Privacy Matters

At the Board, we deal with a lot of personal information—military service records, medical reports, and details about how events in service have had an impact on a Veteran's life and family. That's why privacy matters so much in our context.

In 2013-14, we continued to build and promote a privacy cuiture at the Board through ongoing training and communications. We carried out Board-wide training about the appropriate use and protection of Veterans' personal information to reinforce our obligations and best practices. We participated in a horizontal audit on the Protection of Personal Information conducted by the Office of the Comptroller General and look forward to feedback for further improvements. We received favourable comments from the Office of the Privacy Commissioner about our practice of depersonalizing our Noteworthy Decisions for publication on our website. We also designated May as Privacy Month to shine a spotlight on the importance of protecting applicants' personal information.

Improving the Federal Court Rehear Process

In May 2012, the Office of the Veteran's Ombudsman published a report entitled *Veterans' Right to Fair Adjudication*. One issue the report identified was delays in the Board rehearing cases returned by the Federal Court, and recommended that the Board review its processes and service standards for the priority treatment of Federal Court rehears.

The Board has made great progress on this recommendation. In June 2012, we implemented a new priority treatment process with the goal of scheduling new hearings within 90 days of the Federal Court Order. Since then, 10 Federal Court rehears have followed the Board's new process, eight of which met the target. In the remaining two, a hearing date could not be set within 90 days due to scheduling challenges and the need to clarify the Federal Court Order.

Feedback

Because the Board gives Veterans their first and only opportunity to appear before decision makers to tell their story, it is especially important for them, and for us, that their hearing experience is a good one. We want applicants to leave their hearing feeling that Board Members listened to—and heard—what they had to say.

That is why the Board made it a priority to find out what applicants thought about their hearing experience and to know whether there were ways we could serve them better. We also wanted to confirm that we were fulfilling our commitment to provide Veterans, CAF and RCMP members, and their families with a respectful hearing environment.

To do this, the Board launched an exit survey in April 2013 to gather large-scale feedback from applicants about their Review hearing. The anonymous questionnaire was administered by email or telephone—depending on the applicant's preference—in the weeks following the hearing.

During the fiscal year 2013-14, 1500 applicants (approximately half of all applicants who had a Review hearing) responded to our questionnaire, the majority of whom told us they had a positive experience. Of particular importance is that 96 per cent of applicants told us that Board Members treated them with respect. Additionally, 93 per cent told us that Board Members listened to what they had to say, and 90 percent told us that Board Members made efforts to put them at ease.

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In addition to the multiple choice answers, the Board received many comments. These comments were authentic and gave the Board great insight into how it could improve the hearing experience.

Certain trends emerged from the feedback of the minority of applicants who expressed concerns about their hearing:

- some associated the decision outcome with fairness of the process;
- some did not fully understand the role of Members' questions during the hearings;
- some felt their hearing was rushed; and
- some felt that Members did not fully understand their situation or had already made up their mind in the case.

The Board is committed to continuous improvement. We will build on the many good practices that contributed to such a positive response overall, but also find opportunities to further improve the experience for all those who come before the Board. Ultimately, our goal is for all Veterans to have the opportunity to clearly express their case, to feel that they were heard, and to receive a fair decision.

Review Hearing Exit Survey - Multiple Choice Questions and Responses

1. Board members clearly explained how the hearing would proceed.

Response	Chart	Percentage	Count
Strongly Agree		55.5%	834
Agree		41.9%	629
Neutral		1.9%	29
Disagree		0.5%	7
Strongly Disagree		0.2%	3
	Total Responses		1502

2. My representative and I had the opportunity to fully explain my case.

Response	Chart	Percentage	Count
Strongly Agree		49.4%	741
Agree		41.6%	624
Neutral		5.1%	77
Disagree		3.7%	55
Strongly Disagree		0.3%	4
	Total Responses		1501

3. Board members listened to what I had to say.

Response	Chart	Percentage	Count
Strongly Agree		50.6%	760
Agree		43.0%	645
Neutral		4.2%	63
Disagree		2.0%	30
Strongly Disagree		0.2%	3
	Total Responses		1501

4. Board members made efforts to put me at ease.

Response	Chart	Percentage	Count
Strongly Agree		48.6%	721
Agree		41.6%	618
Neutral		7.2%	107
Disagree		2.1%	31
Strongly Disagree		0.5%	8
	Total Responses		1485

5. Board members treated me with respect.

Response	Chart	Percentage	Count
Strongly Agree		59.1%	878
Agree		36.8%	547
Neutral		2.5%	37
Disagree		1.2%	18
Strongly Disagree		0.3%	5
	Total Responses		1485

6. I received a fair hearing.

Response	Chart	Percentage	Count
Strongly Agree		34.3%	509
Agree		44.8%	665
Neutral		16.6%	247
Disagree		3.2%	48
Strongly Disagree		1.1%	16
	Total Responses		1485

Looking Ahead

In 2014-15, we will continue to focus on these four key priorities to ensure the best possible service to applicants.

Delivering an independent appeal process

Our mission remains to provide timely, respectful hearings and fair, plain-language decisions to applicants. It underpins everything we do—from our scheduling to our decision writing. To protect the integrity of the appeal process, we will continue to reinforce and promote our independent mandate through training for Members and staff and sustained communications with external audiences.

Improving our operations

Our business process redesign team will continue its work to make our operations smarter and better. As usual, we will closely monitor our workload to prevent delays in processing from being passed on to applicants. Where the time is shared with representative organizations, we will work with them to address operational issues and get cases heard. When it comes to training for Board Members, we will focus on giving them guidance and tools to support them in their role as specialized adjudicators.

Communicating more

We will continue to develop new information resources for applicants and to publish useful materials and decisions on our website. We will also work with our stakeholders to identify new opportunities for outreach and information sharing. We already have plans to develop a short video to be shown through the Second Career Assistance Network (SCAN) to CAF members across the country who are medically releasing. Our exit survey will continue to give us authentic information to guide program improvements.

Managing with Accountability and Transparency

We will continue to strengthen our management practices by being strategic with our human resources planning, identifying risks and participating in the Office of the Comptroller General's horizontal and core audits. The Board is planning an evaluation for 2015-16 to give us evidence-based information to improve our process. Evaluating progress and reporting on results are good management practices that support quality service to Canadians.

{ Contact Us }

If you have any questions about the Board's work or would like more information about our program, please contact us:

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